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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,505	12/30/2005	Michel Tielemans	2005_1972A	5662
513	7590	12/01/2006	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			NILAND, PATRICK DENNIS	
2033 K STREET N. W.			ART UNIT	
SUITE 800			PAPER NUMBER	
WASHINGTON, DC 20006-1021			1714	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/560,505

Applicant(s)

TIELEMANS ET AL.

Examiner

Patrick D. Niland

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The amendment of 9/1/06 has been entered. Claims 19-38 are pending.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 19-38 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 6566438 Ingrisich et al..

Ingrisich discloses the instantly claimed compositions, methods of making, and use at the abstract; column 2, lines 53-67; column 3, lines 1-67; column 4, lines 1-67; column 5, lines 1-67, particularly 20-24 and 60-67, more particularly noting the “high boiling” solvent; column 6, lines 1-67, particularly 1-7 noting the function of the solvent in aiding in coalescence and the solvents of lines 1-3 fall within the scope of those of the instant claims, lines 9-24, more particularly 19-21 which are expected to be incorporated into the vinyl polymer upon initiation of the mixture and these compounds can react with the acid groups and NCO groups of the polyurethane and which amount falls within the scope of the instant claim 12, and lines 47-67; column 7, lines 1-67, particularly 25-29 and 36-37 which can react with NCO and acid groups of the polyurethane and the anhydride can react with any amino groups which might result from the disclosed chain extensions; column 9, lines 1-67, particularly 1-11, 27-30, and 36-40 which encompasses the

presence of free NCO where the chain extension is less than 100%. Even in the presence of water, the dispersed particles are known to be able to retain unreacted NCO groups within the dispersed particles which water cannot diffuse to and therefore cannot react with; and the remainder of the document.

Preference is given to high boiling solvents such as NMP, not only NMP. The other two preferred high boiling solvents fall within the scope of the instant claims, note particularly dipropylene glycol dimethyl ether of the patentee and the instant claims such as claim 21. The group of high boiling solvents of the patentee is so small as not to require picking and choosing to arrive at the instantly claimed invention. It is noted that the vinyl imidazole, vinyl pyrrolidone, and acetoacetoxyethyl methacrylate are expected to be reactable with the carboxyl and NCO groups of the polyurethane of the patentee and are expected to necessarily be incorporated into the vinyl polymer of the patentee. The applicant does not argue regarding these teachings of the patentee. The argued column 7, lines 44-55 are not representative of the entirety of the patentee's disclosure. Column 6, lines 1-21 are particularly noted. The argument that NMP is always used as the solvent ignores column 6, lines 1-3. The examples are not representative of the entirety of the disclosure, which is not even required to have examples. For these reasons, this rejection is maintained.

5. Claims 19-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6566438 Ingrisich et al..

Ingrisich discloses the instantly claimed compositions, methods of making, and use at the abstract; column 2, lines 53-67; column 3, lines 1-67; column 4, lines 1-67; column 5, lines 1-67, particularly 20-24 and 60-67, more particularly noting the "high boiling" solvent; column 6, lines

Art Unit: 1714

1-67, particularly 1-7 noting the function of the solvent in aiding in coalescence and the solvents of lines 1-3 fall within the scope of those of the instant claims, lines 9-24, more particularly 19-21 which are expected to be incorporated into the vinyl polymer upon initiation of the mixture and these compounds can react with the acid groups and NCO groups of the polyurethane and which amount falls within the scope of the instant claim 12, and lines 47-67; column 7, lines 1-67, particularly 25-29 and 36-37 which can react with NCO and acid groups of the polyurethane and the anhydride can react with any amino groups which might result from the disclosed chain extensions; column 9, lines 1-67, particularly 1-11, 27-30, and 36-40 which encompasses the presence of free NCO where the chain extension is less than 100%. Even in the presence of water, the dispersed particles are known to be able to retain unreacted NCO groups within the dispersed particles which water cannot diffuse to and therefore cannot react with; and the remainder of the document.

It would have been obvious to one of ordinary skill in the art to use the above combinations of ingredients and amounts thereof in the compositions of the patentee because they are encompassed by the patentee and would have been expected to give the properties of the compositions of the patentee.

Preference is given to high boiling solvents such as NMP, not only NMP. The other two preferred high boiling solvents fall within the scope of the instant claims, note particularly dipropylene glycol dimethyl ether of the patentee and the instant claims such as claim 21. The group of high boiling solvents of the patentee is so small as not to require picking and choosing to arrive at the instantly claimed invention. It is noted that the vinyl imidazole, vinyl pyrrolidone, and acetoacetoxyethyl methacrylate are expected to be reactable with the carboxyl and NCO

groups of the polyurethane of the patentee and are expected to necessarily be incorporated into the vinyl polymer of the patentee. The applicant does not argue regarding these teachings of the patentee. The argued column 7, lines 44-55 are not representative of the entirety of the patentee's disclosure. Column 6, lines 1-21 are particularly noted. The argument that NMP is always used as the solvent ignores column 6, lines 1-3. The examples are not representative of the entirety of the disclosure, which is not even required to have examples. For these reasons, this rejection is maintained.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

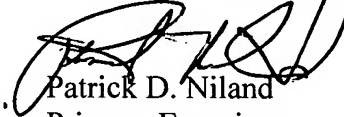
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 571-272-1121. The examiner can normally be reached on Monday to Thursday from 10 to 5.

Art Unit: 1714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)

  
Patrick D. Niland  
Primary Examiner  
Art Unit 1714